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**UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

Joanne Lewis,

Plaintiff,

v.

United States; CBP Officer Amir,  
 individually and in his official capacity;  
 CBP Officer Ramos, individually and in  
 his official capacity; CBP Officer  
 Gomez, individually and in  
 his official capacity; Doe CBP  
 Officers 1-50, individually and in their  
 official capacities; San Diego County  
 Sheriff's Department; Doe SDCS  
 Deputies 1-50, individually and in their  
 official capacities; Contra Costa County  
 Sheriff's Department; CCCSD Deputy  
 A. Charles, individually and in his  
 official capacity; CCCSD Deputy  
 M. Bailey, individually and in his  
 official capacity; Doe CCCSD  
 Deputies 1-50, individually and in  
 their official capacities,

Defendants.

Civil Action No. '15CV2319 CAB JLB

**Complaint for Damages for:**

1. *Bivens*: Unlawful Detention
2. FTCA: False Imprisonment
3. FTCA: Negligence
4. APA : 5 U.S.C. § 702, injunctive relief
5. APA : 5 U.S.C. § 702, injunctive relief
6. *Bivens*: Illegal Search
7. FTCA: Battery
8. *Bivens*: Illegal Search
9. FTCA: Battery
10. FTCA: Unlawful arrest, CCC 52.1
11. FTCA: Illegal search, CCC 52.1
12. 42 U.S.C. § 1983: Illegal Arrest
13. 42 U.S.C. § 1983: Illegal Arrest
14. *Monell*: Unconstitutional customs, policies, and procedures
15. *Monell*: Failure to train and/or supervise
16. *Monell*: Unconstitutional customs, policies, and procedures
17. *Monell*: Failure to train and/or supervise

**Demand for Jury Trial.**

## INTRODUCTION

1. U.S. Customs and Border Protection officers arrested Plaintiff Joanne Lewis (“Plaintiff”) on an outstanding warrant. The warrant was sixteen years old. It alleged the simple possession of narcotics. But while the warrant was for *a* Joanne Lewis, it was not for *this* Joanne Lewis.

Plaintiff and the other Joanne Lewis do not resemble each other. Plaintiff is a Caucasian woman. She stands 5'2". She weighs 120 pounds. She is 52 years old. She had no criminal history. She had never visited Contra Costa County. She spent the day volunteering at a Tijuana orphanage before her arrest.

The warrant was for an African-American woman. That woman stood 5'8". That woman weighed 150 pounds. That woman lived in Contra Costa County. That woman failed to appear in court after her 1997 arrest for the possession of heroin.

Although the names of these two women were the same, and although Contra Costa County wrongfully included Plaintiff’s driver’s license number in the warrant, the birthdates were a year apart also. Given these objective discrepancies between Plaintiff and the other Joanne Lewis, officers knew or should have known that the warrant was not for Plaintiff. But they arrested her anyway.

And it got worse. After the arrest, a Customs officer sexually assaulted Plaintiff. She subjected her to repeated and illegal body-cavity searches. Officers mocked her when she complained and wept. When CBP finally contacted Contra Costa County about the warrant—hours later—an officer instructed CBP to continue to detain Plaintiff. They did so even though they knew or should have known that it was not the right person. The San Diego County Sheriff later repeated the same error that CBP did. They ignored Plaintiff’s protestations of innocence. They ignored information that conflicted with the facts on the warrant. They too knowingly booked and held Plaintiff on someone else’s warrant.

This resulting complaint can be summarized as follows:

Count	Claim	Defendant(s)
1	<i>Bivens</i> / Fourth Amendment claim for unlawful arrest.	Individual CBP Officers Amir, Ramos, Gomez, and CBP Does
2	Federal Tort Claims Act claim for false imprisonment.	United States
3	FTCA Claim for negligence.	United States
4	Administrative Procedures Act claim for injunctive relief regarding CBP policies and procedures for executing a warrant.	United States
5	Administrative Procedures Act claim for injunctive relief to purge Ms. Lewis's wrongful criminal history.	United States
6	<i>Bivens</i> / Fourth Amendment claim for first illegal body cavity search.	Doe CBP officer(s)
7	FTCA claim for battery for first illegal body cavity search.	United States
8	<i>Bivens</i> / Fourth Amendment claim for second illegal body cavity search.	Doe CBP officer(s)
9	FTCA for battery for second illegal body cavity search.	United States
10	Bane Act violation, Cal. Civ. Code §52.1, via the FTCA, for unlawful arrest and detention in violation of California law.	United States
11	Bane Act violation, Cal. Civ. Code §52.1, via the FTCA, for body cavity search in violation of California law.	United States

12	§ 1983 / Fourth Amendment claim for illegal arrest at Los Colinas Detention Facility	Doe San Diego County Sheriff's Deputies
13	§ 1983 / Fourth Amendment claim for deliberate indifference in drafting warrant, and for illegal arrest in directing CBP to continue Ms. Lewis's unlawful arrest.	Doe Contra Costa County Sheriff's Deputies, CCCSD Officers A. Charles, M. Bailey
14	Unconstitutional customs, policies or practices ( <i>Monell</i> , 42 U.S.C. § 1983) for unlawful practices and procedures in executing warrants.	San Diego County Sheriff's Department
15	Unconstitutional failure to train and/or supervise ( <i>Monell</i> , 42 U.S.C. § 1983) regarding practices and procedures in executing warrants.	San Diego County Sheriff's Department
16	Unconstitutional customs, policies or practices ( <i>Monell</i> , 42 U.S.C. § 1983) for unlawful practices and procedures in drafting, issuing, and executing warrants.	Contra Costa County Sheriff's Department
17	Unconstitutional failure to train and/or supervise ( <i>Monell</i> , 42 U.S.C. § 1983) regarding practices and procedures in drafting, issuing, and executing warrants.	Contra Costa County Sheriff's Department

Plaintiff requests a jury trial to pursue justice on these claims.

**JURISDICTION AND VENUE**

2. This is a civil action where jurisdiction is founded on a federal question under 28 U.S.C. § 1331.

3. Plaintiff's claims arise in this judicial district where the events or omissions giving rise to this complaint occurred, namely the Otay Mesa Port of Entry, the San Ysidro Port of Entry, and the Las Colinas Detention Facility, all of which are situated in the Southern District of California.

4. Venue is proper in the United States District Court for the Southern District of California under 28 U.S.C. § 1391.

5. Plaintiff filed timely claims against the federal defendants under 28 U.S.C. §§1346, and 2671-2680 (the Federal Tort Claims Act), on or about October 31, 2014. The United States denied the claims on or about April 28, 2015.

**PARTIES**

6. Plaintiff was, at all times relevant to this lawsuit, a resident of the State of California, County of Orange, and a citizen of the United States. She was traveling through the Otay Mesa Port of Entry, in the Southern District of California, on November 2, 2013.

7. At all times relevant herein, Customs and Border Protection ("CBP") was a sub-agency of the Department of Homeland Security, which in turn is an agency of defendant United States.

8. Defendant CBP Officer Ramos, at all times relevant herein, was an officer and/or agent with Customs and Border Protection. He was on duty at the Otay Mesa Port of Entry on November 2, 2013. At all times mentioned herein, this defendant was an employee of CBP and acting in an official capacity and under color of law. This defendant participated in the decision to arrest Plaintiff on a warrant that he knew, should have known, and/or strongly suspected pertained to a different person. This officer's first

1 name is presently unknown to plaintiff.

2 9. Defendant CBP Officer Amir, at all times relevant herein, was an officer  
3 and/or agent with Customs and Border Protection. He was on duty at the Otay Mesa Port  
4 of Entry on November 2, 2013. At all times mentioned herein, this defendant was an  
5 employee of CBP and acting in an official capacity and under color of law. This  
6 defendant participated in the decision to arrest Plaintiff on a warrant that he knew, should  
7 have known, and/or strongly suspected pertained to a different person. This officer's first  
8 name is presently unknown to plaintiff.

9 10. Defendant CBP Officer Gomez, at all times relevant herein, was an  
10 officer and/or agent with Customs and Border Protection. He was on duty at the San  
11 Ysidro Port of Entry on November 2 and the morning of November 3, 2013. At all times  
12 mentioned herein, this defendant was an employee of CBP and acting in an official  
13 capacity and under color of law. This defendant participated in the decision to arrest  
14 Plaintiff on a warrant that he knew, should have known, and/or strongly suspected  
15 pertained to a different person. This officer's first name is presently unknown to plaintiff.

16 11. Doe CBP Officers 1-50 were, at all times relevant to this lawsuit, officers  
17 and/or agents with Customs and Border Protection. The Doe CBP Officers include, but  
18 are not limited to, a female CBP officer who was on duty at the San Ysidro Port of Entry  
19 on or about November 2, 2013, and who subjected Plaintiff to two separate body-cavity  
20 examinations; other officers who participated in the decision to arrest Plaintiff; other  
21 officers who participated in or witnessed the body-cavity searches; and other supervisory  
22 officials within CBP.

23 12. Defendant San Diego County Sheriff's Department ("SDCS") is a law  
24 enforcement agency for the county of San Diego, organized under the laws of the state of  
25 California. Las Colinas Detention Facility is a local jail for female inmates within the  
26 county of San Diego, and is controlled and maintained by the San Diego County Sheriff's

1 Department. Doe SDCS Deputies 1-50 were, at all times relevant to this lawsuit, sheriff's  
2 deputies working at the Las Colinas Detention Facility where Plaintiff was booked after  
3 being transported from the San Ysidro Port of Entry. Doe SDCS Deputies booked  
4 Plaintiff into custody at Las Colinas despite the fact that they knew, should have known,  
5 and/or strongly suspected that she was not the person wanted on the warrant.

6 13. Defendant Contra Costa County Sheriff's Department ("CCCSD") is a  
7 law enforcement agency for the county of Contra Costa, organized under the laws of the  
8 state of California. CCCSD Deputies A. Charles and M. Bailey, at all times relevant  
9 herein, were deputies with the Contra Costa County Sheriff's Department, and were  
10 acting in an official capacity and under color of law. These deputies swore out a  
11 complaint and a warrant for Joanne Lewis that unlawfully, and with deliberate  
12 indifference to the constitutional rights of Plaintiff, included Plaintiff's Driver's License  
13 number. CCCSD Deputy A. Charles, CCCSD Deputy M. Bailey, and Defendant CCCSD  
14 also failed to institute precautions and training to properly describe the person wanted on  
15 the warrant and exclude innocent persons from the risk of arrest, thereby demonstrating a  
16 deliberate indifference of the risk to the public that it posed. Doe CCCSD Deputies 1-50  
17 were, at all times relevant to this lawsuit, working as employees of Contra Costa county,  
18 performing in an official capacity and under color of state law. These employees include  
19 but are not limited to the person who, when finally contacted by CBP and advised of the  
20 discrepancies between Plaintiff and the person wanted on the warrant, advised CBP to  
21 continue to hold her anyway, despite the fact that he or she knew, should have known,  
22 and/or strongly suspected that it was not the correct person.

### 23 **FACTUAL ALLEGATIONS**

24 14. The warrant that caused Plaintiff's arrest had been issued sixteen years  
25 earlier. On June 27, 1997, defendant CCCSD deputies P. Omary and J. Rubin arrested a  
26 woman named Joanne Lewis ("Lewis") after responding to a call about an apparent  
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1 heroin overdose at a house in Richmond, California.

2 15. According to the CCCSD police report, Lewis is African-American,  
3 stands 5'8" tall, and was born on April 20, 1962. She weighed approximately 150  
4 pounds. She lived in Contra Costa County.

5 16. Defendant CCCSD deputies P. Omary and J. Rubin arrested Lewis for  
6 possession of drugs and being under the influence of a controlled substance, but released  
7 her pursuant to California Penal Code Section 849.

8 17. Several months later, on October 17, 1997, defendant CCCSD deputy A.  
9 Charles (on behalf of defendant CCCSD deputy M. Bailey) submitted a sworn declaration  
10 in support of a complaint charging Lewis with a violation of Health & Safety Code  
11 Section 11350 for possession of a controlled substance.

12 18. Defendant CCCSD deputy Charles incorporated by reference the files  
13 from CCCSD Case No. 97-17638, and requested that a warrant be issued for Lewis's  
14 arrest.

15 19. As part of the warrant request, Defendants CCCSD and CCCSD deputies  
16 A. Charles, M. Bailey, and Doe CCCSD Deputies 1-50, with deliberate indifference to the  
17 foreseeable risks to Plaintiff and others, alleged that Lewis was using Plaintiff's  
18 California Driver's License number. They included this allegation in their warrant  
19 paperwork, and thereby tied Plaintiff's DMV number to the wanted Lewis in the warrant  
20 abstract.

21 20. Defendant CCCSD, CCCSD deputies A. Charles and M. Bailey, and Doe  
22 CCCSD Deputies 1-50 did not include any other identifying information—such as  
23 Lewis's physical description—on the warrant or warrant abstract as required by  
24 California Penal Code Section 850.

25 21. Defendant CCCSD, CCCSD deputies A. Charles and M. Bailey, and Doe  
26 CCCSD Deputies 1-50 knew or should have known that an innocent person could suffer  
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1 an unlawful arrest and a violation of their Fourth Amendment rights if they attached  
2 someone else's driver's license number to the warrant and warrant abstract issued against  
3 Lewis, and failed to describe Lewis in sufficient detail to avoid risk to innocent members  
4 of the public.

5 22. Defendant CCCSD was deliberately indifferent to Plaintiff's and the  
6 public's Fourth Amendment rights by failing to provide its employees, officers, and  
7 deputies with adequate training on properly preparing, drafting, and requesting arrest  
8 warrants.

9 23. Defendant CCCSD was deliberately indifferent to Plaintiff's Fourth  
10 Amendment rights by failing to have in place practices or procedures for including and  
11 reviewing information attached to an arrest warrant and warrant abstract. CCCSD and its  
12 agents knew, or should have known, that given enough time, an innocent person could be  
13 arrested on this warrant.

14 24. On November 2, 2013, an innocent person was arrested on this warrant.  
15 On that date, Plaintiff traveled to Tijuana, Mexico with her church group to volunteer at  
16 an orphanage.

17 25. She spent the day with fellow members of her congregation playing with  
18 the children, providing food and other goods, and generally trying to be of service to the  
19 orphanage.

20 26. The church group, including Plaintiff, returned to the Otay Mesa Port of  
21 Entry (at the United States / Mexico border) at approximately 4:00 p.m. the same day.

22 27. They were on foot, having left their vehicles on the American side of the  
23 border.

24 28. The group was accompanied by several clergy members of Plaintiff's  
25 church.

26 29. At the Port of Entry, Plaintiff handed her passport to the Customs and  
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1 Border Protection officer who was assigned to the pedestrian lane she was standing in.

2 30. The passport had a color photograph of Plaintiff and it correctly listed her  
3 date of birth as xx-xx-1963.

4 31. In response to questions by the CBP officer, Plaintiff explained that she  
5 had been in Mexico working at an orphanage with her church group.

6 32. This information was consistent with the account of the other members of  
7 Plaintiff's congregation who entered before and after her in line, as well as the account of  
8 the pastors who passed through the Port of Entry with the group.

9 33. Plaintiff also provided her correct social security number to the CBP  
10 officer, ending in 1218.

11 34. The CBP officer wrote down this information on a piece of paper.

12 35. This first officer gave the paper to CBP Officer Amir, who was on duty at  
13 the Otay Mesa Port of Entry that day.

14 36. Officer Amir was stationed behind a computer approximately 10 feet  
15 away from where Plaintiff first gave her passport to CBP in line.

16 37. Officer Amir typed some information into the computer. On information  
17 and belief, Officer Amir was entering information into the computer from Plaintiff's  
18 passport and from the piece of paper provided by the first officer.

19 38. Officer Amir then asked Plaintiff some additional questions.

20 39. In response to Amir's questions, Plaintiff provided, again, her correct  
21 social security number, ending in 1218.

22 40. In response to Amir's questions, Plaintiff also stated that she was 5'2".  
23 She specifically denied that she was 5'8", and reiterated that she was 5'2".

24 41. In response to Amir's questions, Plaintiff stated that she was born on xx-  
25 xx-1963. She specifically denied that she was born on the same day in 1962.

26 42. Officer Amir then told Plaintiff that she was being detained.

1           43.       Amir placed Plaintiff in handcuffs. This occurred within view of  
2 members of her church congregation.

3           44.       Amir did not tell Plaintiff why she was being detained at that time. He  
4 simply took her to a back room within the Port of Entry instead.

5           45.       After Plaintiff was in the back room for some time, CBP officer Ramos  
6 entered the room and spoke to Plaintiff.

7           46.       Officer Ramos took Plaintiff's personal belongings from her.

8           47.       Officer Ramos ordered Plaintiff to take down her hair so that it could be  
9 inspected.

10          48.       Officer Ramos immediately fingerprinted Plaintiff.

11          49.       A female officer performed a search of Plaintiff at the Otay Mesa Port of  
12 Entry. This search consisted of the female officer running a gloved hand around  
13 Plaintiff's bra area and along the top of her underwear line.

14          50.       The search revealed no contraband or weapons.

15          51.       Approximately an hour later, Officer Ramos returned to the back room,  
16 where Plaintiff was still being held.

17          52.       He handed Plaintiff her property back and stated "this isn't you" or words  
18 to that effect. Officer Ramos told Plaintiff that she was going to be released.

19          53.       By that time, Officer Ramos did not believe that Plaintiff was the person  
20 wanted on an outstanding warrant.

21          54.       The person actually wanted on the warrant: 1) had a date of birth of xx-  
22 xx-1962 (not 1963); 2) was African-American (not Caucasian); was 5'8" (not 5'2"); and  
23 was 150 lbs. (not 120). That person also had an address in Contra Costa County, where  
24 Plaintiff had never even visited.

25          55.       Officer Ramos took Plaintiff back to where Officer Amir was still  
26 standing, behind the computer. Officer Ramos informed Officer Amir that Plaintiff was  
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1 not the person wanted on a warrant.

2 56. Officer Amir heard and understood Officer Ramos to be saying that  
3 Ramos did not believe that Plaintiff was the person wanted on the warrant.

4 57. Officer Ramos told Officer Amir to clear Plaintiff and let her go because  
5 she was not the person wanted on the warrant.

6 58. Officer Amir verbally confronted Officer Ramos, and inquired if he had  
7 checked other databases. Officer Amir refused to release Plaintiff.

8 59. The prevailing standard of care for law-enforcement officers required that  
9 someone contact the jurisdiction that issued the warrant, defendants Contra Costa County  
10 and CCCSD, to compare Plaintiff's physical description with the warrant and warrant  
11 abstract issued against Lewis.

12 60. Reasonably trained officers would know that probable cause cannot be  
13 established by relying only on electronic wanted-persons systems.

14 61. Reasonably trained officers would have confirmed with the issuing  
15 jurisdiction, defendants Contra Costa County and CCCSD, whether Plaintiff and Lewis  
16 were the same person.

17 62. On information and belief, defendants CBP, Officer Amir, Officer  
18 Ramos, and Does 1-50 detained Plaintiff at the Otay Mesa Port of Entry by relying only  
19 on the electronic wanted-persons systems.

20 63. Officer Ramos took Plaintiff to the back room once more, and took her  
21 property from her again.

22 64. During this time at Otay Mesa, Plaintiff's pastor and a number of the  
23 members of her church group waited for her to be released. A CBP officer eventually  
24 told them that Plaintiff was not going to be released. He did not tell the church members  
25 why she was being arrested, leaving them to speculate on what she had done wrong.

26 65. Plaintiff was humiliated and suffered fear and other emotional distress  
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1 during her detention.

2 66. Plaintiff later suffered humiliation and embarrassment and damage to her  
3 reputation due to the fact that her arrest was known to her church congregation and  
4 clergy.

5 67. Several hours later, at approximately 7:45 p.m., CBP transported Plaintiff  
6 from the Otay Mesa Port of Entry to the San Ysidro Port of Entry.

7 68. CBP handcuffed Plaintiff with her hands behind her back, and loaded her  
8 into a van for transport to San Ysidro.

9 69. There were other detainees in this van at the time, including men.

10 70. Being handcuffed behind her back was physically painful to Plaintiff.

11 71. Plaintiff suffered terror and emotional distress by being detained with  
12 male and female detainees in the back of a van, while handcuffed.

13 72. After her arrival at the San Ysidro Port of Entry, Plaintiff was  
14 fingerprinted a second time.

15 73. CBP officers took Plaintiff into a separate room at the San Ysidro Port of  
16 Entry.

17 74. Three other female detainees were also in this room.

18 75. A CBP officer ordered Plaintiff and the three other female detainees to  
19 turn and face one of the walls in the room. The officer ordered the women to put their  
20 hands on a counter and spread their feet apart.

21 76. Plaintiff did as she was instructed, not because she consented, but  
22 because it was an order under color of law.

23 77. Plaintiff observed a female CBP officer working her way down the line of  
24 women, inspecting and searching each of them.

25 78. Plaintiff could observe the female CBP officer placing a gloved hand  
26 down each of the first three women's pants as part of this search.

1           79.       Plaintiff was last in line. When it was her turn to be searched, the female  
2 CBP officer did not merely run a hand over Plaintiff's bra line, as the first officer had  
3 done at Otay Mesa. Rather, this officer squeezed Plaintiff's breasts hard, causing  
4 physical pain and emotional distress.

5           80.       The female CBP officer then placed her hand down Plaintiff's pants and  
6 underwear. The officer inserted her gloved finger inside Plaintiff's vagina.

7           81.       During this vaginal search, the CBP officer was still wearing the same  
8 glove that she had used to search the previous three detainees.

9           82.       CBP purports to have specific rules and procedures governing the  
10 circumstances under which a body cavity search may be performed, including but not  
11 limited to those set forth in the Customs and Border Protection "Personal Search  
12 Handbook."

13           83.       CBP rules and regulations require there to be a specific and articulable  
14 suspicion that contraband is concealed in a body cavity in order to justify a search.

15           84.       CBP rules and regulations require approval from a Port Director before  
16 proceeding with a body cavity search.

17           85.       CBP rules and regulations require that a body cavity search be performed  
18 in a medical setting, by trained medical personnel. CBP officers are not allowed to  
19 perform body-cavity searches themselves, per their own rules and regulations.

20           86.       CBP rules require that if a body-cavity search is to be performed, it must  
21 not occur in the presence of officers of the other gender, and it must be done in  
22 reasonable privacy.

23           87.       The female officer who searched Plaintiff did not have a specific and  
24 articulable suspicion that Plaintiff was concealing contraband or weapons in her vagina.

25           88.       On information and belief, the female officer who searched Plaintiff was  
26 not a trained physician, nurse, or medical assistant.

1           89.       The body cavity search was performed in the presence of three other  
2 female detainees, and at least one male CBP officer.

3           90.       The body cavity search was performed in a room at the Port of Entry, not  
4 in a medical setting.

5           91.       On information and belief, the officer who searched Plaintiff did not  
6 obtain permission from a supervisor to conduct a body cavity search prior to doing so.

7           92.       This body cavity search caused Plaintiff physical pain, emotional distress,  
8 and subjected her to the risk of sexually transmitted disease and infection.

9           93.       Plaintiff was visibly upset, crying and professing her innocence during  
10 and after this invasive search.

11          94.       CBP officers mocked Plaintiff for her emotional distress before and after  
12 the search. They called her a “basket case” and made other similar derogatory comments  
13 about her.

14          95.       Less than 20 minutes after the first body cavity search, the same female  
15 officer made Plaintiff stand up for another search.

16          96.       Plaintiff complained that she had just been searched, and inquired why  
17 the officer was searching her again.

18          97.       The female officer responded, “Because I am!”

19          98.       As part of this second search, the female officer inserted her finger into  
20 Plaintiff’s vagina for a second time.

21          99.       The female officer instructed Plaintiff to look straight ahead during this  
22 second body-cavity search; she threatened Plaintiff that she “better not move” during the  
23 search. Plaintiff began to cry uncontrollably after this second invasive search.

24          100.       Officers mocked her more, making additional derogatory comments and  
25 insults.

26          101.       Plaintiff asked the female officer who had conducted the searches if she  
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1 could use the restroom. The female officer refused, telling Plaintiff to “hold it.” At  
2 approximately 10:00 p.m. the same night, CBP Officer Gomez entered the room.

3 102. Officer Gomez fingerprinted Plaintiff for a third time. Plaintiff explained  
4 to Officer Gomez that she had no criminal history whatsoever, and had never failed to  
5 appear on a criminal matter—in Contra Costa County or anywhere else.

6 103. Officer Gomez reviewed what appeared to be paperwork associated with  
7 Plaintiff and her detention and stated, “this is all wrong” or words to that effect.

8 104. Officer Gomez left the room, saying he was going to investigate further.

9 105. Officer Gomez returned and asked Plaintiff her maiden name. She  
10 replied, truthfully, “Constestabile.”

11 106. Plaintiff protested to Officer Gomez that she was not the person wanted  
12 on a warrant.

13 107. Plaintiff told Officer Gomez her correct date of birth, her height, and her  
14 maiden name. Officer Gomez also had access to Plaintiff’s passport, fingerprints, and  
15 social security number. CBP Officers actually spoke to members of Plaintiff’s family on  
16 the phone that night. They did not use that opportunity to determine that Plaintiff was not  
17 the person wanted on the warrant.

18 108. Officer Gomez represented to Plaintiff that he had been on the phone with  
19 authorities from Contra Costa County, where the warrant originated. On information and  
20 belief, no one from CBP contacted Contra Costa County prior to Officer Gomez’s phone  
21 call, and that call did not occur until after 10:00 p.m. that night.

22 109. Officer Gomez informed the officer or deputy from Contra Costa County  
23 about the discrepancies between Plaintiff’s identifying information and the person wanted  
24 on the warrant, including the different date of birth, the half-foot discrepancy in height,  
25 and the difference in race.

26 110. Defendant CCCSD instructed Officer Gomez to continue to detain  
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1 Plaintiff and to send her up to Contra Costa County on the warrant.

2 111. Defendant CCCSD did so despite the fact that he or she knew, or should  
3 have known, that Plaintiff was not the person wanted on the warrant.

4 112. Defendants CCCSD and Doe CCCSD Deputies 1-50 knew or should have  
5 known that Plaintiff and/or other innocent persons would suffer an unlawful arrest and a  
6 violation of her Fourth Amendment rights if her identity was not confirmed.

7 113. If Defendant CCCSD had an adequate policy and procedure for  
8 ascertaining the identity of persons wanted on a warrant, and whether a person in custody  
9 was that person, they would have been able to determine that Plaintiff was not the person  
10 wanted on the warrant. With adequate policies and procedures in place, CCCSD could  
11 and would have determined that a 5'2", 120-pound Caucasian woman with a different  
12 birth year was not the person wanted on the warrant.

13 114. Defendant CCCSD did not have adequate policies or procedures in place.  
14 Rather, CCCSD's custom and practice was to issue warrants without sufficient details,  
15 and then detain a person by default when in doubt about the identity of a person arrested  
16 on a warrant.

17 115. CBP Officer Gomez explained to Plaintiff that he did not believe that she  
18 was the person wanted on the warrant, but that there was nothing he could do. He refused  
19 to release her.

20 116. Beginning at approximately 1:40 the next morning, CBP officers  
21 transported Plaintiff to the Las Colinas Detention Facility, a jail for women run by the  
22 San Diego County Sheriff's Department.

23 117. CBP officers again placed Plaintiff in handcuffs, handcuffing her hands  
24 behind her back. She remained handcuffed in this fashion until she arrived at Las  
25 Colinas.

26 118. CBP officers placed her in the back of a van. The van contained other  
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1 male detainees who were being transported from the Port of Entry. Plaintiff had also  
2 been left in a holding cell alone and unattended with male detainees prior to being  
3 transported by van.

4 119. Plaintiff was in excruciating pain from having her hands handcuffed  
5 behind her back during this transport.

6 120. Plaintiff was terrified at being caged at the Port of Entry, and later in the  
7 back of a van, handcuffed, in the presence of male detainees.

8 121. Eventually Plaintiff was deposited at the Las Colinas Detention Facility.  
9 She was subjected to a DNA swab at Las Colinas, which she did not consent to.

10 122. Plaintiff informed at least six different SDCS deputies and/or employees  
11 at Las Colinas, at various times, that she was not the person wanted on the warrant.

12 123. Plaintiff informed at least six different SDCS deputies and/or employees  
13 at Las Colinas, at various times, that her date of birth was wrong, and gave them her  
14 correct identifying information.

15 124. One SDCS deputy at Las Colinas responded to Plaintiff's claims of  
16 innocence by stating, "I don't care." The others ignored her and/or stated it was not their  
17 problem.

18 125. SDCS deputies knew that Plaintiff was born in 1963, that she was 5'2",  
19 and that she was Caucasian.

20 126. SDCS deputies knew or should have known that Plaintiff was not the  
21 person wanted on the warrant. But they accepted her into custody and detained her  
22 anyway.

23 127. Plaintiff continued to attempt to tell SDCS deputies at Las Colinas that  
24 she had the wrong person, but her claims were ignored.

25 128. Defendant San Diego County Sheriff's Department has written policies  
26 and procedures that govern the acceptance of arrestees on out-of-county warrants. But  
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1 these written protocols require only matching the name on the warrant abstract to the  
2 name of the person arrested.

3 129. These policies and procedures do not require verifying any other  
4 identifying information between the person sought on the warrant and the person arrested.

5 130. These policies and procedures fail to adequately guard against the  
6 foreseeable risk that a person could be arrested on a warrant intended for someone else.  
7 Despite the obvious and foreseeable risk that wrongful arrest poses to innocent members  
8 of the public, Defendant SDCS did not have an adequate procedure for addressing claims  
9 of mistaken identity on a warrant.

10 131. Instead, Defendant SDCS relies on a policy of detention by default when  
11 in doubt about the identity of a person arrested on a warrant.

12 132. Specifically, Defendant SDCS's current policies and procedures relating  
13 to claims of mistaken identity state that "if a watch commander is unable to determine if  
14 the inmate is the subject of the warrant, the inmate will remain in custody." On  
15 information and belief, this policy was at least the prevailing custom and practice, if not  
16 the written policy, in place at the time of Plaintiff's arrest.

17 134. Plaintiff remained in custody at Los Colinas as a result of the  
18 unconstitutional policies, practices, and customs of Defendant SDCS, and because of the  
19 deliberate indifference of Doe SDCS Deputies at Las Colinas.

20 135. Plaintiff, with the help of a sympathetic inmate, was finally able to  
21 contact a bailbondsman. She eventually posted a \$10,000 bond (which cost a \$1,000  
22 premium plus miscellaneous costs and fees).

23 136. Upon her release from Las Colinas, Plaintiff was given some of property  
24 back, but not all of it.

25 137. In particular, she was given back one diamond hoop earring that was a  
26 gift from her son. The other earring was missing. The earrings held significant  
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1 sentimental value to Plaintiff.

2 138. Plaintiff told the property deputy that she was wearing two earrings, and  
3 that one of them was missing.

4 139. The deputy responded, "That's your problem."

5 140. The other earring has never been returned.

6 141. After making bail, Plaintiff hired an attorney to address the warrant and  
7 criminal case in Contra Costa county.

8 142. The Contra Costa County District Attorney's Office almost immediately  
9 dismissed the case against Plaintiff.

10 143. On November 12, 2013 the Superior Court for the County of Contra  
11 Costa granted the District Attorney's motion for a finding of Factual Innocence as to  
12 Plaintiff.

13 144. On November 18, 2013, Plaintiff contacted the Customs and Border  
14 Protection Customer Information center, and spoke to Branch Chief Norman Bright. She  
15 reported her treatment at the Ports of Entry stated that she wanted to find out who was  
16 responsible and what went wrong.

17 145. CBP generated a reference number for her complaint and report:  
18 131118-002347.

19 146. On November 18, 2013, Chief Norman Bright sent Plaintiff an email,  
20 thanking her for contacting the U.S. Customs and Border Protection INFO Center. Chief  
21 Bright instructed Plaintiff to "contact the Joint Intake Center at 877-246-8253. Please  
22 send me an email with the details of what happened with your arrest."

23 147. Plaintiff called the number as instructed. She also sent a detailed email to  
24 CBP Chief Bright. The email described what had happened to Plaintiff on the day of her  
25 arrest.

26 148. This email was sent to Chief Norman Bright at the email address:  
27  
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1 [“customs@customs-mail.custhelp.com”](mailto:customs@customs-mail.custhelp.com).

2 149. On information and belief, Chief Bright received Plaintiff’s November  
3 18, 2013 email.

4 150. This email to Chief Bright included a description of the discrepancy  
5 between the wanted person and herself—namely that she was 5'2" not 5'8"; that she was  
6 Caucasian not African-American; and that her birth year was 1963 not 1962. In  
7 summary, it described in detail the facts of her arrest on a warrant for someone else.

8 151. Plaintiff’s November 18, 2013 email to Chief Bright also told him  
9 explicitly that she was subjected to multiple illegal vaginal searches at the Port of Entry.  
10 The email included the following paragraph:

11 “At aprox 7:45 pm they cuffed me again and moved me to San Ysidro. When I  
12 arrived I was patted down again. This time very aggressively! This officer  
13 squeezed my breasts very hard and went into my underwear and in my vagina with  
14 her finger. She did this with the same glove that she did three other women before  
15 me!! I was mortified!!!! I never felt so violated!!! I was told to sit in a chair. I kept  
16 asking why I was there and I just kept being told to be quiet. After about 20  
17 minutes the same female officer called my name again and repeated the pat down!  
18 When I questioned why she was doing it again she told me "because I am" and the  
19 male officer behind her said "What do you work here?" Even if I was a criminal  
20 NO ONE should be treated in this manner!!!

21 152. CBP never responded to Plaintiff’s email.

22 153. On information and belief, neither Chief Norman Bright nor any other  
23 CBP employee took any follow-up action in response to Plaintiff’s email and telephonic  
24 complaints.

25 154. As late as 2014, Plaintiff’s federal “rap sheet” continued to reflect an  
26 arrest for narcotics charges. On information and belief, her rap sheet continues to be  
27 associated with that arrest and charge.

28 155. In approximately June of 2014, Plaintiff underwent a background check  
as part of a new job opportunity. The background check, which utilized F.B.I. and  
Department of Justice databases, revealed a November 2, 2013 arrest at San Ysidro. It  
included a description of the charge as “COUNTS OF POSSESS NARCOTIC CNTL

1 SUB.” The records show that this arrest is tied to Plaintiff’s “TEN-PRINT  
2 SUBMISSION,” i.e., her fingerprints.

3 156. Plaintiff now suffers from distress, fear, and humiliation from the fact that  
4 *her* personal information—including date of birth, fingerprints, social security number,  
5 and even DNA—is now tied to this warrant and arrest at the Port of Entry. She also  
6 believes that other background checks for other job opportunities revealed this wrongful  
7 criminal record, costing her job opportunities and loss of income.

8 157. Plaintiff lives in fear that she will wrongfully be associated with the felon  
9 from Contra Costa County in the future.

10 158. Since the arrest, Plaintiff has been unable to travel outside of the United  
11 States, for fear of being wrongfully arrested at the border and subjected to the same  
12 treatment that she suffered in 2013.

13 159. Plaintiff’s church group continues to travel to Mexico regularly to  
14 volunteer at the orphanage, but she is unable to participate even though she would like to.

15 160. Plaintiff has also been unable to travel with friends or family as a result of  
16 this incident.

17 161. Plaintiff suffers continuing harm from her wrongful arrest and sexual  
18 assault, including but not limited to fear of law enforcement, anxiety, emotional distress,  
19 restrictions on her daily movements and life, and nightmares.



**I.**

**FIRST CAUSE OF ACTION**

***Bivens* action: Unlawful Arrest**

162. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.

163. This cause of action is based upon *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

164. Plaintiff had a Fourth Amendment right to freedom of movement and freedom from unreasonable seizures which Defendants Amir, Ramos, Gomez, and CBP Doe Officers violated by detaining and arresting her on a warrant that they actually knew or should have known pertained to someone else. These defendants were not acting in good faith, were acting under color of law, and violated Plaintiff's Fourth Amendment rights.

165. Defendants CBP Officers Amir, Ramos, Gomez, and CBP Doe Officers' actions in illegally detaining and arresting Plaintiff caused damage to her, and led to the later harms that occurred. These defendants are being sued in their individual capacities for the purposes of this cause of action.

**II.**

**SECOND CAUSE OF ACTION**

**FTCA: False Imprisonment**

166. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.

167. Defendants Amir, Ramos, Gomez, and CBP Doe Officers intentionally deprived Plaintiff's freedom of movement by force, threats of force, menace, and duress.

168. Defendants Amir, Ramos, Gomez, and CBP Doe Officers arrested Plaintiff, or contributed to her arrest, in their official capacity and in the scope of their

1 employment as Customs and Border Protections Officers of the United States.

2 169. Plaintiff was not allowed to leave for an appreciable time.

3 170. Plaintiff did not consent to be imprisoned.

4 171. Plaintiff was actually harmed by the conduct of the Defendants and  
5 Defendants' conduct was a substantial factor in causing harm to Plaintiff.

6 **III.**

7 **THIRD CAUSE OF ACTION**

8 **FTCA: Negligence**

9 172. Plaintiff realleges and incorporates herein by reference each and every  
10 allegation contained in the preceding paragraphs.

11 173. Defendants Amir, Ramos, Gomez, and CBP Doe Officers had a duty to  
12 avoid violating Plaintiff's rights to freedom of movement and bodily integrity, and to use  
13 reasonable care in the execution of an arrest warrant to ensure that it was for the correct  
14 person.

15 174. Defendants Amir, Ramos, Gomez, and CBP Doe Officers breached their  
16 duty of care and caused harm to Plaintiff, including physical pain, terror, mental anguish,  
17 humiliation, damage to reputation, and financial loss.

18 175. Defendants Amir, Ramos, Gomez, and CBP Doe Officers acted in their  
19 official capacity and in the scope of their employment as Customs and Border Protections  
20 Officers of the United States.

21 176. As a direct, proximate, and foreseeable result of the Defendants' breach  
22 of their duty of care, Plaintiff suffered damages in an amount according to proof at  
23 the time of trial.

IV.

**FOURTH CAUSE OF ACTION**

**Administrative Procedures Act Claim, 5 U.S.C. § 701 *et seq.***

177. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.

178. Defendant United States has adopted customs, policies, rules, and/or procedures for the execution of arrest warrants that are arbitrary, capricious, an abuse of discretion, not in accordance with the law, and without observance of the procedures required by law.

179. Plaintiff suffered and continues to suffer legal wrong, and was and continues to be adversely aggrieved, by the customs, policies, rules, and/or procedures regarding the execution of warrants adopted by the United States. Specifically, Plaintiff cannot travel without the justified fear that she will be wrongly identified again, that she will be wrongly associated with another person's warrant or criminal record, and that her prior mistreatment will be repeated.

180. These policies, rules, and procedures resulted and continue to result in violations of Plaintiff's statutory and constitutional rights, as alleged in the prior paragraphs of this complaint, and are considered a final agency action for which there is no other adequate remedy in court.

V.

**FIFTH CAUSE OF ACTION**

**Administrative Procedures Act Claim, 5 U.S.C. § 701 *et seq.***

181. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.

182. Defendant United States has adopted customs, policies, rules, and/or procedures for entering and purging information (and refusing to purge information) from

1 a person's criminal history record, and these practices are arbitrary, capricious, an abuse  
 2 of discretion, not in accordance with the law, and without observance of the procedures  
 3 required by law.

4 183. Plaintiff suffered and continues to suffer legal wrong, and was and  
 5 continues to be adversely aggrieved, by the policies, rules, and procedures for entering  
 6 and purging information from a person's criminal history record adopted by the United  
 7 States. Specifically, Plaintiff continues to have a "rap sheet" and criminal history records  
 8 reflecting a narcotics arrest at the Port of Entry, associating her identifying information  
 9 and fingerprints with this arrest, and incorrectly tying her to a different person's warrant  
 10 and crimes.

11 184. These policies, rules, and procedures resulted and continue to result in  
 12 violations of Plaintiff's statutory and constitutional rights, as alleged in the prior  
 13 paragraphs of this complaint, and are considered a final agency action for which there is  
 14 no other adequate remedy in court.

## 15 VI.

### 16 SIXTH CAUSE OF ACTION

#### 17 *Bivens* action: Illegal Search

18 185. Plaintiff realleges and incorporates herein by reference each and every  
 19 allegation contained in the preceding paragraphs.

20 186. This cause of action is based upon *Bivens v. Six Unknown Federal*  
 21 *Narcotics Agents*, 403 U.S. 388 (1971).

22 187. Plaintiff had a Fourth Amendment right to be free of unreasonable  
 23 searches, which Defendants CBP Doe Officers violated by subjecting her to an invasive  
 24 and unjustified body cavity search. These defendants were not acting in good faith, were  
 25 acting under color of law, and violated Plaintiff's Fourth Amendment rights.

26 188. Defendant CBP Doe Officers' actions in illegally searching Plaintiff

1 caused damage to her, in an amount to be proven at trial. These defendants are being  
2 sued in their individual capacities for the purposes of this cause of action.

3 **VII.**

4 **SEVENTH CAUSE OF ACTION**

5 **FTCA: Battery**

6 189. Plaintiff realleges and incorporates herein by reference each and every  
7 allegation contained in the preceding paragraphs.

8 190. Defendant CBP Doe Officers acted with an intent to cause harmful or  
9 offensive contact with the person of Plaintiff and the intended harmful or offensive  
10 contact did in fact occur.

11 191. Defendant CBP Doe Officers subjected Plaintiff to an invasive and  
12 unlawful body cavity examination, including placing a gloved finger inside her vagina.

13 192. CBP Doe Officers acted in their official capacity and in the scope of their  
14 employment as Customs and Border Protections Officers of the United States.

15 193. The harmful or offensive contact was not privileged nor consented to and  
16 was excessive, unreasonable, and done with deliberate indifference to the rights and  
17 safety of Plaintiff.

18 194. As a result of CBP Doe Officers' intent to cause harmful or offensive  
19 contact with the person of Plaintiff, and the fact that the intended harmful or offensive  
20 contact did in fact occur, Plaintiff suffered damages according to proof at the time of trial.  
21 Said damages are currently in excess of the jurisdictional minimum of this court and  
22 include general and special damages according to proof at the time of trial.

**VIII.**

**EIGHTH CAUSE OF ACTION**

***Bivens* action: Second Illegal Search**

195. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.

196. This cause of action is based upon *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

197. Plaintiff had a Fourth Amendment right to be free of unreasonable searches, which defendants CBP Doe Officers violated by subjecting her to a *second* invasive and unjustified body cavity search. These defendants were not acting in good faith, were acting under color of law, and violated Plaintiff's Fourth Amendment rights.

198. Defendant CBP Doe Officers' actions in illegally searching Plaintiff for a second time caused damage to her, in an amount to be proven at trial. These defendants are being sued in their individual capacities for the purposes of this cause of action.

**IX.**

**NINTH CAUSE OF ACTION**

**FTCA: Battery**

199. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.

200. Defendant CBP Doe Officers acted with an intent to cause harmful or offensive contact with the person of Plaintiff and the intended harmful or offensive contact did in fact occur.

201. Defendant CBP Doe Officers subjected Plaintiff to a second invasive and unlawful body-cavity examination, including placing a gloved finger inside her vagina.

202. CBP Doe Officers acted in their official capacity and in the scope of their employment as Customs and Border Protections Officers of the United States.

204. As a result of CBP Doe Officers' intent to cause harmful or offensive contact with the person of Plaintiff, and the fact that the intended harmful or offensive contact did in fact occur, Plaintiff suffered damages according to proof at the time of trial. Said damages are currently in excess of the jurisdictional minimum of this court and include general and special damages according to proof at the time of trial.

10 **TENTH CAUSE OF ACTION**  
11 **(FTCA: Cal. Civ. Code §52.1)**

12           205.       Plaintiff realleges and incorporates herein by reference each and every  
13   allegation contained in the preceding paragraphs.

14           206.       Defendants Amir, Ramos, Gomez and CBP Doe Officers violated  
15 Plaintiff's clearly established rights under the California Constitutions and statutes, which  
16 include, but are not limited to, the following:

17 (a) Article I, Section 13 of the California Constitution: right to be free  
18 from unreasonable detentions, searches, and seizures; and

19 (b) California Civil Code Section 43: right of protection from bodily  
20 restraint or harm, from personal insult and from defamation.

21           207.       The California Legislature has declared that it is a violation of state civil  
22 rights act for any person to interfere with the exercise or enjoyment by any individual of  
23 her rights secured by the United States Constitution or state or federal law. This includes  
24 any interference of these rights by threats, intimidation, coercion or attempted threats,  
25 intimidation or coercion.

26 | 208. These Defendants interfered with Plaintiff's rights under the California



1 Constitution and statutes by the detention and seizure alleged above.

2 209. The conduct alleged herein caused Plaintiff to be deprived of her civil  
3 rights that are protected under the California Constitution and statutes which has also  
4 legally, proximately, foreseeably and actually caused her to suffer emotional distress, pain  
5 and suffering, damage to reputation and further damages according to proof at the time of  
6 trial.

7 **XI.**

8 **ELEVENTH CAUSE OF ACTION**

9 **(FTCA: Cal. Civ. Code §52.1)**

10 210. Plaintiff realleges and incorporates herein by reference each and every  
11 allegation contained in the preceding paragraphs.

12 211. Defendants CBP Doe Officers violated Plaintiff's clearly established  
13 rights under the California Constitutions and statutes, which include, but are not limited  
14 to, the following:

15 (a) Article I, Section 13 of the California Constitution - right to be free  
16 from unreasonable detentions, searches, and seizures; and

17 (b) California Civil Code Section 43 - right of protection from bodily  
18 restraint or harm, from personal insult and from defamation.

19 212. The California Legislature has declared that it is a violation of state civil  
20 rights act for any person to interfere with the exercise or enjoyment by any individual of  
21 her rights secured by the United States Constitution or state or federal law. This includes  
22 any interference of these rights by threats, intimidation, coercion or attempted threats,  
23 intimidation or coercion.

24 213. These Defendants interfered with Plaintiff's rights under the California  
25 Constitution and statutes by the illegal and invasive body-cavity searches alleged above.

26 214. The conduct alleged herein caused Plaintiff to be deprived of her civil  
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1 rights that are protected under the California Constitution and statutes which has also  
2 legally, proximately, foreseeably and actually caused her to suffer emotional distress, pain  
3 and suffering, damage to reputation and further damages according to proof at the time of  
4 trial.

5 **XII.**

6 **TWELFTH CAUSE OF ACTION**

7 **Violation of constitutional rights under color of law (42 U.S.C. § 1983)**

8 215. Plaintiff realleges and incorporates herein by reference each and every  
9 allegation contained in the preceding paragraphs.

10 216. Defendants Doe SDCS Deputies, during all times relevant herein were  
11 acting under color of state law. These defendants are being sued in their individual  
12 capacities for the purposes of this cause of action.

13 217. Plaintiff had a Fourth Amendment right to freedom of movement, and to  
14 be free from illegal and unreasonable arrests.

15 218. Plaintiff had a Fourth Amendment right to freedom of movement which  
16 Defendants Doe SDCS Deputies violated by detaining and arresting her on a warrant that  
17 they actually knew or should have known pertained to someone else. These defendants  
18 were not acting in good faith, were acting under color of law, and violated Plaintiff's  
19 Fourth Amendment rights.

20 219. Defendants Doe SDCS Deputies' actions in illegally detaining and  
21 arresting Plaintiff caused damage to her, in an amount to be proven at trial.

**XIII.**

**THIRTEENTH CAUSE OF ACTION**

**Violation of constitutional rights under color of law (42 U.S.C. § 1983)**

220. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.

221. Defendants CCCSD Deputies A. Charles and M. Bailey, and Doe CCCSD Deputies, during all times relevant herein were acting under color of state law. These defendants are being sued in their individual capacities for the purposes of this cause of action.

222. Plaintiff had a Fourth Amendment right to freedom of movement, and to be free from illegal and unreasonable arrests.

223. Plaintiff had a Fourth Amendment right to freedom of movement which Defendant CCCSD Deputies A. Charles and M. Bailey, and Doe CCCSD Deputies violated by issuing, with deliberate indifference, a warrant that carried a foreseeable and obvious risk to Plaintiff and the public of wrongful arrest. Doe CCCSD Deputies also violated Plaintiff's Fourth Amendment rights by instructing U.S. Customs and Border Protection Officers to continue to detain her on a warrant that they actually knew or should have known pertained to someone else. These defendants were not acting in good faith, were acting under color of law, and violated Plaintiff's Fourth Amendment rights.

224. Defendants Doe CCCSD Deputies' actions in illegally detaining and arresting Plaintiff caused damage to her, in an amount to be proven at trial.

**XIV.**

**FOURTEENTH CAUSE OF ACTION**

**Unconstitutional customs, policies or practices (*Monell*, 42 U.S.C. § 1983)**

225. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.



1 failure to properly train and supervise its employees resulted in a violation of Plaintiff's  
2 Fourth Amendment rights.

3 231. Defendant SDCS failed to train its employees to consider a person's  
4 physical description or other distinguishing personal information before booking that  
5 person into custody on an arrest warrant.

6 232. Defendant SDCS failed to train its employees on how to properly address  
7 claims of mistaken identity from a person arrested on a warrant.

8 234. Defendant SDCS failed to train its employees adequately by instructing  
9 them to rely on a policy of detention by default when in doubt about the identity of a  
10 person arrested on a warrant.

11 235. Defendant SDCS failed to supervise its employees on the manner in  
12 which they verified the identity of a person arrested on a warrant and the manner in which  
13 they resolved claims of mistaken identity on a warrant.

14 236. Defendant SDCS's failure to properly train and supervise its officers and  
15 employees, as a matter of policy, custom and practice, was deliberately indifferent to  
16 Plaintiff's Fourth Amendment rights and done with conscious disregard for the dangers of  
17 harm and injury to Plaintiff and others similarly situated. This failure to train and  
18 supervise was the moving force behind the violation of Plaintiff's Fourth Amendment  
19 rights, and proximately, foreseeably and actually caused Plaintiff to suffer damages in an  
20 amount to be proven at trial.

21 **XVI.**

22 **SIXTEENTH CAUSE OF ACTION**

23 **Unconstitutional customs, policies or practices (*Monell*, 42 U.S.C. § 1983)**

24 237. Plaintiff realleges and incorporates herein by reference each and every  
25 allegation contained in the preceding paragraphs.

26 238. Defendant CCCSD maintained unconstitutional customs, policies, or  
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1 practices, within the meaning of *Monell*, for issuing warrants and verifying the identity of  
2 a person arrested on a warrant. These customs, policies, or practices resulted in a  
3 violation of Plaintiff's Fourth Amendment rights.

4 239. Defendant CCCSD's unconstitutional customs, policies, and practices  
5 included but were not limited to: issuing warrants with insufficient personal identifying  
6 information, such as physical description, to avoid foreseeable risk to innocent persons;  
7 failing to institute safeguards to avoid inclusion of erroneous information, such as  
8 Plaintiff's driver's license number, in an arrest warrant; failing to consider personal  
9 identifying information, such as physical description, before requesting the booking of a  
10 person into custody on an arrest warrant; maintaining inadequate policies, practices, or  
11 procedures for preparing, requesting, and issuing arrest warrants; maintaining inadequate  
12 policies, practices, or procedures for addressing claims of mistaken identity; and adopting  
13 a policy of detention by default when in doubt about a person's identity.

14 240. Defendant CCCSD's unconstitutional customs, policies, and practices  
15 amounted to deliberate indifference of Plaintiff's Fourth Amendment rights. These  
16 customs, policies, and practices were the moving force behind the violation of Plaintiff's  
17 Fourth Amendment rights, and proximately, foreseeably and actually caused Plaintiff to  
18 suffer damages in an amount to be proven at trial.

## 19 XVII.

### 20 SEVENTEENTH CAUSE OF ACTION

#### 21 Failure to train and/or supervise (*Monell*, 42 U.S.C. § 1983)

22 241. Plaintiff realleges and incorporates herein by reference each and every  
23 allegation contained in the preceding paragraphs.

24 242. Defendant CCCSD, as a matter of custom, practice or policy, failed to  
25 institute, require, and enforce proper and adequate training and supervision for verifying  
26 the identity of a person arrested on a warrant, when the need for such training and  
27

1 supervision was obvious. Defendants' failure to properly train and supervise its  
2 employees resulted in a violation of Plaintiff's Fourth Amendment rights.

3 243. Defendant CCCSD failed to train their employees on proper procedures  
4 for preparing, requesting, and issuing arrest warrants, including attaching to the warrant  
5 and warrant abstract any distinguishing personal information for the person sought on the  
6 warrant.

7 244. Defendant CCCSD failed to train their employees to consider a person's  
8 physical description or other distinguishing personal information before requesting that a  
9 person be booked into custody on an arrest warrant.

10 245. Defendant CCCSD failed to train their employees on a proper policy to  
11 address claims of mistaken identity from a person arrested on a warrant.

12 246. Defendant CCCSD failed to train their employees by instructing them to  
13 rely on a policy of detention by default when in doubt about the identity of a person  
14 arrested on a warrant.

15 247. Defendant CCCSD failed to supervise their employees on the manner in  
16 which they prepared, requested, and issued arrest warrants, verified the identity of a  
17 person arrested on a warrant, and resolved claims of mistaken identity on a warrant.

18 248. Defendant CCCSD's failure to properly train and supervise its officers, as  
19 a matter of policy, custom, and practice, was deliberately indifferent to Plaintiff's Fourth  
20 Amendment rights and done with conscious disregard for the dangers of harm and injury  
21 to Plaintiff and others similarly situated. Defendant's failure to train and supervise its  
22 employees was the moving force behind the violation of Plaintiff's Fourth Amendment  
23 rights, and proximately, foreseeably and actually caused Plaintiff to suffer damages in an  
24 amount to be proven at trial

**PRAYER FOR RELIEF**

Plaintiff prays for judgment against defendants as follows:

1. General and compensatory damages in an amount according to proof;
2. Punitive and exemplary damages;
3. Civil penalties as provided by law;
4. Declaratory and injunctive relief remedying the continued policies, customs and practices governing how CBP, SDCCS, and CCCSD acts upon warrants and ascertains the identities of the wanted persons to avoid future harm;
5. Declaratory and injunctive relief expunging any criminal record, rap sheet, or similar document reflecting that Plaintiff Lewis was arrested for a narcotics offense, and/or linking her to the warrant or criminal history of the person wanted on that warrant from Contra Costa County.
6. Attorney fees under 42 U.S.C. § 1983, Cal. Civ. Code §52.1, and the Equal Access to Justice Act, 28 U.S.C. § 2412 et seq.
7. Costs of suit;
8. And for such other and further relief as the Court may deem proper.

Date: October 15, 2015

Respectfully submitted,

*s/ Timothy A. Scott*

TIMOTHY A. SCOTT  
NICOLAS O. JIMENEZ

Law Offices of Timothy A. Scott, APC  
Attorneys for Plaintiff Joanne Lewis